



U.S. AGENCY FOR
GLOBAL MEDIA

UNITED STATES
BROADCASTING
BOARD OF
GOVERNORS

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V-A 7-11 1-11 1-11 1-11 1-11

November 5, 2018

Emma Best
MuckRock News
DEPT MR 55001
411A Highland Ave.
Somerville, MA 02144-2516

VIA ELECTRONIC MAIL: 55001-13621825@requests.muckrock.com

Re: FOIA Appeal Request No. 18-028

Dear Ms. Best:

This letter responds to the Freedom of Information Act (FOIA) appeal that you filed in case reference number 18-028, which we received on September 13, 2018. The United States Agency for Global Media (USAGM) Access Appeal Committee (AAC) convened to consider your appeal.

As background, you filed a FOIA request with the Broadcasting Board of Governors, now the United States Agency for Global Media (Agency) on May 29, 2018, seeking:

all emails containing the terms 'MuckRock', 'Muck Rock' or 'MuckRock.com', excluding emails sent to or from a MuckRock.com email address." You further specified that you were requesting "the complete email exchange for each email, including any emails that are being replied to as well as any subsequent replies.

On or about June 13, 2018, the Agency's FOIA and Privacy Act Officer (FOIA/PA Officer) responded to the request, finding that it was not properly submitted "because it would impose an unreasonable burden upon the Agency to search for and identify records potentially responsive to it."

The Agency received your appeal of the FOIA/PA Officer's determination on September 13, 2018.

The AAC here was comprised of three members: the Chief of Staff (myself), the Director of Public Affairs, and the Deputy of the Information Technology. The AAC has authority to deny your appeal in its entirety or to grant it in part or in full.



Having reviewed your appeal carefully, as well as the FOIA Office's June 13, 2018, determination, the AAC now grants your appeal. It therefore is remanding your request to the FOIA/PA Officer to conduct a search for responsive records and to review any results for release, unless exempted, as soon as practicable.

The AAC also considered the court decision you included with your appeal in MuckRock, LLC v. Central Intelligence Agency, 14-CV-997 (DDC Feb. 2, 2018) and did not find it applicable here. Unlike the agency in that case, USAGM does not have an impermissible policy or practice – and no evidence has been presented of any – in evaluating requests for emails.

The AAC's decision constitutes the Agency's final action on your appeal that we received on September 13, 2018, and exhausts your administrative remedies as to the issues you raised. As set forth in the FOIA (5 U.S.C. 552(a)(4)(B)), you may seek judicial review of this decision in the district court of the United States in the district in which you reside or have your principal place of business. You may also seek judicial review in the district in which the agency's records are situated or in the District of Columbia.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Walsh", with a stylized, cursive script.

Matthew Walsh
Chair, Access Appeal Committee
U.S. Agency for Global Media